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Attorney's Docket No.: 13909-055001
Client Ref. No.: 2003P00799 US

REMARKS

Claims 1, 3 to 11, 13 to 21, and 23 to 28 are pending in the application, of which claims

1, 11 and 21 are independent.[1] Favorable reconsideration and further examination are

respectfully requested.

Initially, we thank the Examiner for the careful consideration given to this case during the

pre-appeal process, and for withdrawal of the prior rejections.

In the current Office Action, the claims were rejected under §101, as follows:

Claim Rejections - 35 USC § 101

1.   35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or
any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and
requirements of this title.

2.   Claims 1, 3-10, 21, 23-28 are rejected under 35 U.S.C. 101 based on Supreme Court

precedent and recent Federal Circuit decisions, a 35 U.S.C § 101 process must (1) be tied to a

particular machine or (2) transform underlying subject matter (such as an article or materials) to

a different state or thing. In re Bilski et al, 88 USPQ 2d 1385 CAFC (2008); Diamond v. Diehr,

450 U.S. 175, 184 (1981); Parker v. Flook, 437 U.S. 584, 588 n.9 (1978); Gottschalk v. Benson,

409 U.S. 63, 70 (1972); Cochrane v. Deener, 94 U.S. 780,787-88 (1876).

An example of a method claim that would not qualify as a statutory process would be a

claim that recited purely mental steps. Thus, to qualify as a § 101 statutory process, the claim

should positively recite the particular machine to which it is tied, for example by identifying the

apparatus that accomplishes the method steps, or positively recite the subject matter that is being

transformed, for example by identifying the material that is being changed to a different state.

Here, applicant's method steps are not tied to a particular machine and do not perform a

transformation. Thus, the claims are non-statutory.   2

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[1] The Examiner is urged to independently confirm this recitation of the pending claims.
[2] Office Action, page 3

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As shown above, independent claims 1 and 21 have been amended such that each of those claims is tied to a particular machine. For example, claim 1 recites that the client, on which the method is performed, comprises a computer system, and claim 21 recites that the first, second and third systems are computer systems. We note that these features are in the body of the claims. In view of these amendments, withdrawal of the §101 rejection is respectfully requested.

We note that no art rejections were entered against claims 21 and 23 to 28. Since the §101 rejection of these claims has been addressed, claims 21 and 23 to 28 are believed to be patentable.

The remaining claims were rejected as follows:

> 4. Claims 1, 3-9, 11, 13-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Floyd et al(6,243,692). [3]

Regarding claim 1 (and 11), the Office Action states:

> 5. As per claims 1, 11, Floyd discloses a method of providing an application core(i.e. protection module) of a software application(see col. 2, lines 1-14) with access to version-specific functionality(see col. 3, lines 52-66), determining a version of the software application(see col. 3, lines 43-51), providing a module link(i.e. unlock module) that corresponds to the version(see col. 4, lines 19-25), authenticating the module link(i.e. unlock module) by verifying against a code that is unique to a user, the module link being used by the application core(i.e. protection module) to access the version-specific functionality(see col. 2, lines 28-39, see col. 4, lines 18-25, 33-35); wherein the application core(i.e. protection module) comprises software that is common across multiple versions(i.e. trial versions) of the application(see col. Lines 58-67, col. 2, lines 1-4), the version includes one of the multiple versions, and the version-specific functionality includes functionality that is specific to the version of the software application(see col. 3, lines 43-51, col. 4, lines 18-25). [4]

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[3] Office Action, page 3

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As explained above, the Office Action equates the "unlock module" of Floyd to the claimed

module link. As shown above, the claims have been amended to further distinguish them from

Floyd and, in particular, to further distinguish the module link from Floyd's unlocking module.

In this regard, claim 1 recites:

> 1. A method, <u>performed on a client</u>, of enabling an application core of a software application
> to access version-specific functionality, the method comprising:
> sending, to a server, information from which a version of the software application can be
> determined;
> receiving, from the server, a module link that corresponds to the version; and
> authenticating the module link by using a code that is unique to a user of the version of the
> software<u>, the module link being used to enable the application core to access one or more modules
> on the server that define the version-specific functionality, and to prevent the application core
> from accessing other modules on the server that define other functionality for the software that is
> not the version-specific functionality</u>;
> wherein the application core comprises software that is common across multiple versions of
> the application, the version comprises one of the multiple versions, and the version-specific
> functionality comprises functionality that is specific to the version of the software application;
> wherein the client comprises a computer system.

Floyd is not understood to disclose or to suggest at least the underlined features of claim 1 above.

More specifically, as shown in Fig. 2 of Floyd (below), the unlocking module is part of a

"Try/Buy application...made up of the trial-only application (setup.exe), a secondary installer,

the unlocking module, and commerce information".[5]

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[4] Office Action, page 4
[5] Col. 3, lines 11 to 15

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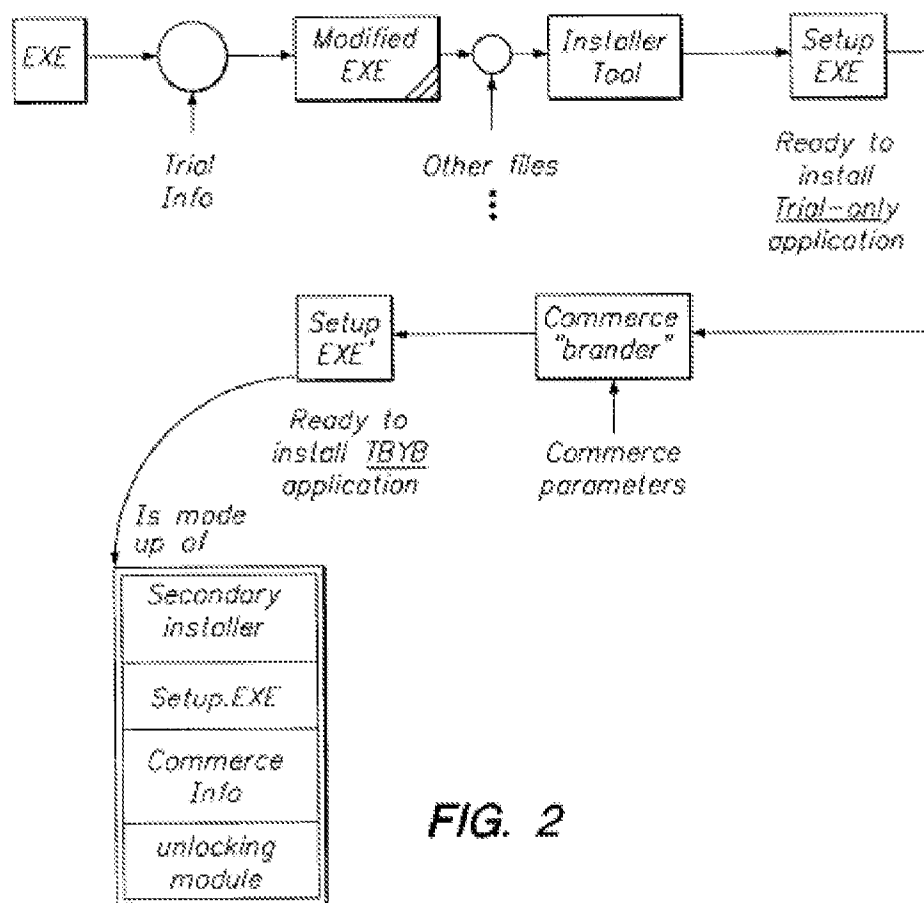Client Ref. No.: 2003P00799 US

FIG. 2

As explained in Floyd:

> If the unlocking DLL is present, then the trial DLL invokes the unlocking DLL. In an
> exemplary embodiment, the unlocking DLL is a superset of the trial DLL and includes both trial
> and commerce functionality. The primary license file is a subset of the secondary license file. The
> unlocking DLL runs, reads the primary license file and controls execution of the software
> accordingly. (emphasis added)[6]

Thus, in Floyd, the unlocking module includes additional functionality that augments the trial

DLL (protection module[7]), and that is downloaded, along with the trial DLL (protection module),

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[6] Col. 4, lines 18 to 25

[7] It is not specifically stated, but it appears that the trial DLL recited in the detailed description is the protection
module recited in the summary and claims.

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to the computer on which the trial DLL (protection module) runs. This is in contrast to claim 1, in which the application core is on the client and the one or more modules that define the version-specific functionality are on the server. Furthermore, in claim 1, the server includes other modules that define other functionality for the application core that is not the version-specific functionality, and the module link prevents the application core from accessing these other modules, while allowing the application core to access modules that define the version-specific functionality. This is not the case for Floyd's unlocking DLL (unlock module), since all of the functionality required for Floyd's commerce version is already on the computer that includes the trial version. Thus, the unlocking DLL (unlock module) need only enable the functionality that is already there, and not enable access to/prevent access to one or more modules that are located not on the client itself, but rather on a server.

For at least the foregoing reasons, claim 1 is believed to be patentable over Floyd. Independent claim 11 is likewise believed to be patentable over Floyd.

Dependent claims are also believed to define patentable features. Each dependent claim partakes of the novelty of its corresponding independent claim and, as such, each has not been discussed specifically herein.

It is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this

paper, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

In view of the foregoing amendments and remarks, we respectfully submit that the application is in condition for allowance, and such action is respectfully requested at the Examiner's earliest convenience.

The undersigned attorney can be reached at the address shown below. All telephone calls should be directed to the undersigned at 617-521-7896.

Please apply any fees or credits due in this case to Deposit Account 06-1050 referencing Attorney Docket No. 13909-055001.

Respectfully submitted,

September 1, 2009
Date:_____

/Paul Pysher/
_____
Paul A. Pysher
Reg. No. 40,780

Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110
Telephone: (617) 542-5070
Facsimile: (617) 542-8906

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